

Application No. 10/735,453
Amendment dated October 4, 2007
Reply to Office Action of September 26, 2007

Docket No.: NY-TAYL 205-US

REMARKS

Claims 1-16 remain pending.

The Examiner has rejected claim 14, under 35 U.S.C. § 112, second paragraph, arguing that it is so indefinite that the prior art could not be searched.

Applicants do not agree. Apparatus designed to test more than one analyte are very well known in the prior art. Please see U.S. Patent No. 6,413,473, for example. In essence, claim 14, which is a dependent claim, covers an apparatus which, when used, permits the user to test a fluid sample for cyanuric acid and something else. The "something else" is undefined in the claim, because it need not be. Both the '473 patent, and the art cited therein, make manifest the fact that devices for testing more than one analyte are well known.

Clarifying language has been added to claim 14, however, it is not seen to render original claim 14 any more narrow than it was.

The Examiner then rejects claims 1, 2, 6-8, 12, 13, 15, and 16 under 35 U.S.C. § 103, in view of Rupe, et al., U.S. Patent No. 4,855,239.

Claims 4, 5, and 10 are rejected in view of Rupe plus "Best Swimming Pool Guide."

Claims 1-3, 6-9, 13, 15, and 16 are rejected as being unpatentable over "Sell apperumaze," U.S. Patent No. 6,432,717, which is actually "Fernando." The Fernando reference is augmented with "Best Swimming Pool Guide" to reject claims 4, 5, and 10.

Applicants traverse.

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All rejections, however, are based upon the same principle. The Examiner argues that 2,4-diamino-6-alkyl-1,3,5-triazine is obvious in view of the prior art teaching of melamine. According to the Examiner:

"it would have been obvious for any person of ordinary skill in the art to use the analogous compound to melamine in the same test strip and method as disclosed by Rupe, because it would have led to expected results at the expected level of success."

"Melamine" or acetoguanine, differs from the recited, claimed compound does have an amino group at position 6 as compared to methyl in the claim. The Examiner's conclusion, however, that 2,4-diamino-6-methyl-1,3,5-triazine is the analogous compound to melamine is unsupported by argument or the art.

Why would one substitute an amino group, which is hydrophilic, with an alkyl group, which is hydrophobic?

Further, triazines, such as melamine, have 3 amino groups. Why would one target the 6 position, and not the others? For that reason, where is there any suggestion that amino and alkyl groups are expected to function similarly? Rupe does not so state. Nor do any of the other references in the cited prior art. One can study any chemical catalog and pick and choose triazine derivatives. Once one has the basic ring structure, one can envision thousands of different structures. This hardly means that they all function similarly, let alone that one would expect them to.

The Examiner simply has not made out a *prima facie* case to show that if one were to substitute the 6 amino groups in acetoguanamine with a methyl group, that the resulting compound, i.e., "DAMT," would function in a manner similar to acetoguanamine, let alone in terms of reactivity with cyanuric acid, which is the key issue here.

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OCT 04 2007

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It is submitted that the Examiner has not shown, by a preponderance of the evidence, that the recited compound "DAMT," is an obvious variant for melamine in cyanuric acid assays. The failure to show this results in a failure to make out a *prima facie* case, and any rejections which rely on this argument must therefore be withdrawn.

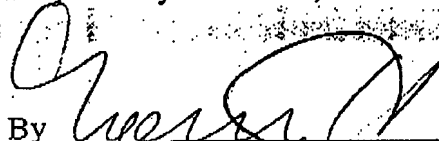
As all of the Examiner's arguments are so based, the entirety of the rejections must be withdrawn. As such, allowance of this application is proper, and is urged.

* * *

Applicant authorize the Commissioner to deduct the fee of \$120.00 for the one-month extension of time from our Deposit Account No. 50-0624, under Order No. NY-TAYL 205-US (10315365) from which the undersigned is authorized to draw.

Dated: October 4, 2007

Respectfully submitted,



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